

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

SHAWN DRUMGOLD
Plaintiff,

v.

TIMOTHY CALLAHAN, FRANCIS M.
ROACHE, PAUL MURPHY, RICHARD
WALSH, and THE CITY OF BOSTON,
Defendants.

C.A. NO.: 04-11193NG

**DEFENDANT RICHARD WALSH'S MOTION TO STRIKE PLAINTIFF'S
RESPONSE TO CONSOLIDATED STATEMENT OF UNDISPUTED MATERIAL
FACTS IN SUPPORT OF HIS MOTION FOR SUMMARY JUDGMENT**

NOW COMES the Defendant, Richard Walsh ("Walsh"), and respectfully moves to strike the Plaintiff, Shawn Drumgold's ("Plaintiff"), Response to the Consolidated Statement of Undisputed Material Facts in support of Walsh's motion for summary judgment (hereinafter "Response"), and requests that the Court deem the Statements in the Consolidated Statement of Undisputed Material Facts admitted for purposes of summary judgment.

Specifically, Walsh moves to strike the following responses:

1. **Responses to ¶¶ 75-76, 79, 81-82, 86-92, 94, 101, 123, 133, 136-137, 144, 146, 152, 172, 180, 184, 186, 191, 193, 197, 201, 208 , 223, 236 and 241:** To the extent that the response therein is supported by Plaintiff's Exhibits 1-7, 13, 15, 18, 22, 25 and/or 27.
2. **Responses to ¶¶ 10-18 and 26-28:** "Not agreed. Exhibit[s cited] are not sworn statements. They do not satisfy the requirements of Fed. R. Civ. P. 56(e) as to affidavits in support of undisputed material facts."

3. **Responses to ¶¶ 231-233:** “Not agreed. Exhibit 30 is a police report, not verified under oath, which is not a valid basis for establishing a material fact pursuant to the Federal Rules of Civil Procedure 56.”
4. **Responses to ¶¶ 24, 67-68, 79, 81-83, 94, 97, 99, 103, 107, 119, 123-125, 141, 174-175, 177 and 234:** For the reasons set forth in Walsh’s supporting Memorandum of Law.
5. **Responses to ¶¶ 16-18, 20, 22, 25-26, 29-32, 34, 36, 38, 42, 48, 63-65, 74-76, 86-92, 95-96, 100-102, 105-106, 110-111, 116, 128, 133, 136-137, 140, 145-146, 152, 164-167, 169, 172-173, 180-181, 184-193, 195, 197-198, 201, 203-204, 208, 211-212, 216, 223, 227-229, 236, 243 and 247:** For the reasons set forth in Walsh’s supporting Memorandum of Law.

As grounds, Walsh states that the Response does not comply with the requirements of Fed. R. Civ. P. 56 and Local Rule 56.1. Moreover, Plaintiff has failed to provide competent and admissible evidence sufficient to controvert Walsh’s statements of fact in support of summary judgment in his favor. As further grounds, Walsh incorporates herein by reference *Memorandum of Law in Support of Defendant Richard Walsh’s Motion to Strike Plaintiff’s Response to Consolidated Statement of Undisputed Material Facts in Support of His Motion for Summary Judgment*.

WHEREFORE, the Defendant, Richard Walsh, respectfully requests that this Honorable Court grant this Motion to Strike.

Defendant,
RICHARD WALSH,
By its attorney,

DATED: December 26, 2007

/s/ Hugh R. Curran
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CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that on the 26th day of December, 2007, I electronically filed with within document with the Clerk of the United States District Court for the District of Massachusetts, using the CM/ECF System. The following participants have received notice electronically:

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